

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Appln No.1675 of 2021

Date	Order with signature of Judge
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For hearing of bail application

24.11.2021

Mr. Munir Ahemd Turk, advocates for the applicant
Mr. Zahoor Shah, APG
Malik Muhammad Tariq, advocate for complainant

AFTAB AHMED GORAR, J.:- Through this bail application, applicants Shah Jahan and Abdul Razzak both sons of Shoukat Hussain seek bail in Crime No.15 of 2020 registered at Police Station Keenjhar Lake, district Thatta, for offences punishable under Sections 324, 334, 337A(ii), 147, 148, 149, 504 PPC.

2. Learned Counsel for the applicants submitted that the applicants are innocent and have falsely been implicated in this case. He further contended that there is inordinate delay of more than 24 hours in lodging the FIR. He also contended that it is case of counter FIR lodged by the parties against each other as due to their fight people from both the sides got injured and therefore, it is yet to be determined that which party was aggressive. He therefore submitted that the applicant may be enlarged on bail.

3. Learned Deputy Prosecutor General assisted by the learned Counsel for the complainant has opposed the bail and submitted that the present applicants are nominated in the FIR with specific role therefore, they are not entitled for concession of bail at this stage. He further contended that the applicants have failed to make out a prima facie case therefore they do not deserve any leniency and as such prays that the bail application of the applicants may be dismissed.

4. I have heard the learned Counsel for the applicant, learned Deputy Prosecutor General, learned Counsel for the complainant and perused the record available before me.

5. The instant bail application has been filed on behalf of two applicant named above. A minute glance of the record reflects that the cases of both the applicants have attributed different roles in the FIR therefore, their cases have to be dealt with separately.

6. As far as the case of the applicant namely Shah Jahan is concerned, perusal of record reveals that he has not only named in the FIR but also attributed a role that the applicant had caused hatched blow to injured Noor Hassan due to which his thumb was cut/imputed. This version finds support from the Medico Legal Certificate as well. Therefore, the act assigned to this applicant falls within the definition of "Itlaf-I-udw which offences falls within the prohibitory clause. Keeping in view the above facts, the bail is declined to the applicant Shah Jahan.

7. As far as the case of applicant Abdul Razzak is concerned, perusal of record reveals that though he has named in the FIR and also attributed role of hatchet blow, however from the medical record it appears that the injury caused by this applicant is "Ghayr Jaifah Damiyah" which offence does not fall within the prohibitory clause of 497 Cr. P.C. The applicant is behind the bars since 14.10.2020. Moreover, when there is fight between the parties and both the parties inflicted injuries to other than it could only be ascertained at the time of trial that which party was aggressive.

8. In view of the above discussion, the case of applicant Abdul Razzak is fit for bail and therefore considering the circumstances, I admit applicant Abdul Razzak to bail subject to his furnishing surety in the sum of Rs.50,000/- and P.R. bond in the like amount to the satisfaction of the trial Court.

9. The bail application stands disposed of in the above terms.

10. Needless to mention that this is tentative assessment for the purpose of this application only, which shall not affect/influence trial of this case in any manner.

JUDGE